

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

ANGELINA FREIRE, et al.,

Plaintiffs

v.

2:13-cv-09079

AMERICAN MEDICAL SYSTEMS, INC., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

There are a number of pending motions in this case, which the court will address in turn. Pending are (1) Plaintiff's Motion to Reconsider, filed by plaintiffs' counsel pursuant to Rule 59(e) of the Federal Rules of Civil Procedure on May 7, 2019 [ECF No. 75] and (2) a "Petition for Reconsideration," improperly filed by plaintiff Angelina Freire on May 13, 2019, despite the fact that plaintiffs are represented by counsel [ECF No. 79]. Defendant Tissue Science Laboratories Limited ("TSL") has responded to both pleadings [ECF No. 81]; and plaintiffs' counsel replied [ECF No. 84]. The motions are premature under Rule 59(e) because there has been no entry of judgment. Accordingly, the court **ORDERS** that Plaintiff's Motion to Reconsider [ECF No. 75] and the improperly filed "Petition for Reconsideration" [ECF No. 79] are **DENIED**.

The court further **ORDERS** that defendants American Medical Systems, Inc. and TSL are dismissed and stricken from this case consistent with the court's order granting the motions for summary judgment of these defendants at ECF No. 71. With the dismissal of these defendants,

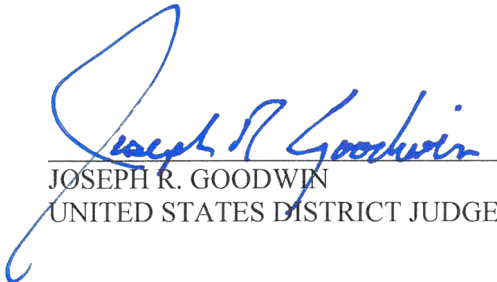
there are a number of pending motions which the court **ORDERS** are **DENIED as moot**: (1) ECF No. 15; (2) ECF No. 46; (3) ECF No. 48; (4) ECF No. 53; (5) ECF No. 55; and (6) ECF No. 57.

As to the remaining defendant in this case, C. R. Bard, Inc. (“Bard”), the court now turns to the final pending motion in this case, Bard’s Motion for Summary Judgment, filed May 17, 2019. [ECF No. 80]. Plaintiffs have responded [ECF No. 83], and the time for a reply from Bard has passed, making the Motion ripe for decision.

Bard, noting that it distributed the product designed and manufactured by TSL, seeks summary judgment on the same grounds as those successfully asserted by TSL. Plaintiffs acknowledge as much in their response and note the pending (now denied) request for reconsideration. For the same reasons as were fully explained in the court’s Memorandum Opinion and Order [ECF No. 71], the Motion [ECF No. 80] is **GRANTED**. Bard, the remaining defendant, is dismissed from this action with prejudice, and the case is closed and stricken from the docket.

The Clerk is **DIRECTED** to send a copy of this Order to counsel of record.

ENTER: November 15, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE